CODE CHANGES 2015:
CONFLICT OF INTEREST

TO: Council
FROM: LPC
April 9, 2015

Amendment to extend the conflict of interest rules to cover discussions even when no motion is on the table. Also to remove the exception allowing AMS employees to be Council members. Also allowing certain staff members to raise conflict of interest issues. And clarifying some minor points.

Additions are indicated by **bold italics**. Deletions are indicated by striking through (like this).

**SECTION II: COUNCIL, COUNCIL MEMBERS AND OTHERS**

**Article 1. Conflict of Interest for Directors of the Society**

1. Voting members of Council, as Directors of the Society, shall act honestly and in good faith in the best interests of the Society as a whole, and exercise the care, diligence and skill of a reasonably prudent person in carrying out their duties.

2. Directors shall use the utmost care and discretion in the handling of confidential and privileged information and shall not use such information for personal benefit or gain. Furthermore, Directors shall not disclose any information discussed in an in camera meeting of Council without the authorization of Council.

3. No Director may, in his or her role as a Director, participate in any decision, exercise an official power or perform an official duty or function in which he or she may have either a conflict of interest or an apparent conflict of interest.

4. (a) Without limiting the generality of paragraph 3 above, if a Director has a conflict of interest or an apparent conflict of interest relating to an issue being deliberated on by Council, or a Committee of Council, he or she shall declare the nature of the conflict and abstain from speaking or voting on the issue, or on any subsidiary motion related to the issue, except to raise a question of privilege.

(b) If a proxy is attending Council or a Committee of Council in the place of a Director who has a conflict of interest or an apparent conflict of interest, or if the proxy themselves has a conflict of interest or an apparent conflict of interest, the proxy shall state the nature of the conflict and abstain from speaking or voting on the issue or on any subsidiary motion related to the issue, except to raise a question of privilege.

(c) However Paragraphs (a) and (b) above notwithstanding, at the request of the
Chair, or if Council or the Committee so directs by Resolution, the Director or proxy may answer questions pertaining to the issue on which they have a conflict of interest or an apparent conflict of interest.

(d) For greater certainty, the rules restricting participation in paragraphs (a) and (b) above shall apply during discussion of an issue even if no formal motion is on the table.

5. If a Director or proxy who has a conflict or apparent conflict of interest is chairing Council or a Committee of Council, they shall relinquish the chair while the issue on which they have a conflict or apparent conflict is being discussed.

6. If Council, or a Committee of Council, moves in camera to discuss an issue on which a Director or their proxy is in a conflict of interest or an apparent conflict of interest, that Director or proxy shall be required to remove himself or herself from the in camera session in which the issue is to be discussed, unless specifically invited to stay by a Two-thirds (2/3) Resolution of Council or the Committee.

7. In the event that a Director is uncertain about whether or not he or she is in either a conflict of interest or an apparent conflict of interest, the Director shall inform Council or a Committee of Council, of the possible conflict and the Chair shall decide whether there is an actual conflict. If the Chair’s decision is appealed, or if the issue of a Director’s conflict becomes a resolution before Council, or a Committee of Council, for any other reason, then that Director shall abstain from speaking or voting on the resolution.

8. If a Director believes that another Director may be in a conflict of interest or an apparent conflict of interest, he or she shall ask the Chair to decide the matter. If the Chair’s decision is appealed, or if the matter becomes a resolution before Council or a Committee of Council for any other reason, then the Director who is in a possible conflict shall abstain from speaking or voting on the resolution.

9. If the General Manager, the Executive Director, or the Senior HR Manager believes that a Director may be in a conflict of interest or an apparent conflict of interest, he or she shall ask the Chair to decide the matter. If the Chair’s decision is appealed, or if the matter becomes a resolution before Council or a Committee of Council for any other reason, then the Director who is in a possible conflict shall abstain from speaking or voting on the resolution.

9. A Director has a conflict of interest when the Director, in his or her capacity as a Director, exercises an official power or performs an official duty or function and at the same time knows that in the exercise of the power or in the performance of the duty or function there is an opportunity to further his or her private interest. A Director shall also be considered to be in a conflict of interest on an issue if the issue concerns relations with an organization outside the Society and if the Director serves on the board of that other [and renumber]
A Director has an apparent conflict of interest if there is a reasonable perception, which a reasonably well-informed person could properly have, that the Director's ability to exercise an official power or perform an official duty or function, in his or her capacity as a Director, may have been affected by his or her private interest.

A Director must not use his or her office to seek to influence a decision, to be made by another person, to further the Director's private interest.

A Director's private interest shall include the private interests of his or her family and the private interests of a companion, business associate or a close personal friend of the Director.

(a) No Executive Member of Council or other Director of the Society may accept a fee, a gift, a personal benefit or hospitality that is offered or tendered by virtue of his or her position as an Executive or a Director, unless authorized to do so by Council in the case of a non-Executive Director or by the Oversight Committee in the case of an Executive. If the Oversight Committee so chooses, it may refer such an issue concerning an Executive to Council.

(b) Subsection (a) above does not apply to a gift or personal benefit that is incidental to the protocol or social obligations that normally accompany the responsibilities of office.

(c) If a gift or personal benefit referred to in subsection (b) above exceeds $150 in value, or if the total value received directly or indirectly from one source in any twelve (12) month period exceeds $150, an Executive must immediately disclose to the Oversight Committee and a Director must immediately disclose to Council, in writing:

(i) the nature of the gift or benefit;
(ii) its source; and
(iii) the circumstances under which it was given and accepted.

(d) Upon receipt of a written disclosure referred to in subsection (c), Council or the Oversight Committee, as the case may be, shall either allow the recipient to keep the gift or benefit, direct that the gift or benefit be returned, or direct that the gift or benefit be disposed of in any other manner it sees fit. If the Oversight Committee so chooses, it may refer such an issue concerning an Executive to Council.

No Executive Member of Council shall hold a significant position, including but not limited to executive positions, within a Constituency, Student Resource Group, or Affiliated Institution student association.
15. No Executive Member of Council shall hold a significant position, including but not limited to executive positions, within a Club except that with the approval of Council by a Two-thirds (2/3) Resolution the President, the Vice-President Academic and University Affairs, and the Vice-President External Affairs may hold such positions.

16. An Executive Member who is permitted by Council to hold a significant Club position in accordance with paragraph 15 above, still may not do any of the following:
   
   (a) sign any cheque or contract on behalf of the Club or be the Society signing officer approving funds for that Club;
   
   (b) advocate within the Society on behalf of the Club.

17. All Directors shall sign an oath of office, prior to their first meeting of Council, in which they agree to abide by the provisions of this Article. All Executive Members shall sign the oath prior to the commencement of their term of office. If a Director appoints a proxy to take his or her place on Council for a meeting, the proxy shall sign the oath of office before the meeting.

18. Any Director who contravenes this Section of Code may be:
   
   (a) directed by a Resolution of Council to:

   (i) pay restitution to the Society for any financial loss suffered by the Society as a direct result of his or her action;
   (ii) account for, and dispose of, any profits made as a result of a breach of this Section;
   (iii) return or otherwise restore the Society's property taken, damaged or destroyed by a direct action of that Director;

   and may be:

   (b) removed from office pursuant to the Bylaws of the Society or, in the case of Constituency Representatives and representatives of student associations at the Affiliated Institutions, pursuant to the Constitution and Bylaws of their respective Constituencies or student associations.

19. Proxies appointed by Directors shall abide by all the rules concerning Directors contained in this Section of Code. Any proxy who contravenes this Section of Code shall be subject to the penalties outlined in paragraph 18(a) above.

20. Directors shall not receive monetary compensation from the Society unless such monetary compensation is received as a direct result of their positions:
(a) as a Director; or
(b) as an employee or paid volunteer of one of the Society’s business operations, Services, Resource Groups, programs or clubs, provided however that the Director was an employee or paid volunteer continuously in the Business, Service, Resource Group, Program or Club position prior to being nominated for the position of Director; or
(bc) within one of the Society's Constituencies or one of the Affiliated Institutions’ student associations.

Comment [A4]: Removing the exception that allows an AMS employee to be a Council member if they were an employee first.